

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of AT&T Communications of California, Inc. (U 5002 C) and WorldCom, Inc. for the Commission to Reexamine the Recurring Costs and Prices of Unbundled Switching in Its First Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application 01-02-024
(Filed February 21, 2001)

Application of AT&T Communications of California, Inc. (U 5002 C) and WorldCom, Inc. for the Commission to Reexamine the Recurring Costs and Prices of Unbundled Loops in Its First Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application 01-02-035
(Filed February 28, 2001)

Application of The Telephone Connection Local Services, LLC (U 5522 C) for the Commission to Reexamine the Recurring Costs and Prices of the DS-3 Entrance Facility Without Equipment in Its Second Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application 02-02-031
(Filed February 28, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING REQUIRING
SUPPLEMENTAL COMPLIANCE FILING TO
DECISION 02-09-049**

Application of AT&T Communications of California, Inc. (U 5002 C) and WorldCom, Inc. for the Commission to Reexamine the Recurring Costs and Prices of Unbundled Interoffice Transmission Facilities and Signaling Networks and Call-Related Databases in Its Second Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application 02-02-032
(Filed February 28, 2002)

Application of Pacific Bell Telephone Company (U 1001 C) for the Commission to Reexamine the Costs and Prices of the Expanded Interconnection Service Cross-Connect Network Element in the Second Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application 02-02-034
(Filed February 28, 2002)

Application of XO California, Inc. (U 5553 C) for the Commission to Reexamine the Recurring Costs of DS1 and DS3 Unbundled Network Element Loops in Its Second Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application 02-03-002
(Filed March 1, 2002)

Background

In Decision (D.) 02-09-049, the Commission modified the shared and common cost markup applied to Pacific Bell Telephone Company's (Pacific, also known as "SBC-California") unbundled network element (UNE) prices from 19% to 21%. At the same time, the Commission modified the expense portion of Pacific's monthly UNE recurring charges to remove double-counting of non-recurring costs that stemmed from a miscalculation of the total direct UNE

cost figure adopted by the Commission in D.98-02-106. In Ordering Paragraph (OP) 3 of D.02-09-049, the Commission directed Pacific to submit a compliance filing “calculating a 13% reduction in the expense portion of each of the recurring costs adopted in D.98-02-106 and calculating the net impact on all of its UNE prices of the markup and recurring cost changes ordered herein.”

In compliance with OP 3, Pacific filed its calculation of modifications to its monthly recurring prices on December 18, 2002. AT&T Communications of California, Inc. (AT&T) and WorldCom, Inc. (WorldCom) (collectively, “Joint Applicants”) filed comments on Pacific’s compliance filing on January 21, 2003. Joint Applicants contend that Pacific’s compliance filing is incomplete because it does not include modified prices for geographically deaveraged loops, for certain UNEs for which costs and prices were adopted in D.99-11-050, and for UNE prices adopted by the Commission in decisions regarding arbitrations of interconnection agreements. According to Joint Applicants, deaveraged loop rates and several UNE prices adopted in D.99-11-050 were based on the cost data underlying D.98-02-106. In addition, Pacific’s own testimony in at least two arbitration proceedings asserted that proposed UNE prices were based on Commission approved total element long run incremental cost (TELRIC) studies and directly derived from D.98-02-106 cost data. (Joint Applicants Comments, 1/21/03, p. 6.)

In response to Joint Applicants, Pacific maintains that OP 3 of D.02-09-049 only requires recalculation of “recurring costs adopted in D.98-02-106” and does not require recalculation of *all* UNE prices. Pacific argues that “for several of the uncosted UNEs, the prices established in D.99-11-050 were not based on SBC California’s cost studies and methodologies.” (Pacific Reply Comments, 2/5/03, p. 3.) As an example, Pacific argues that prices for the DS-1 port and unbundled

loops provided over digital loop carrier were based on approaches advocated by AT&T and WorldCom rather than costs adopted in D.98-02-106. (*Id.*) In addition, Pacific states that there is no reason to assume that prices set forth in interconnection agreements are tied to the costs adopted in D.98-02-106.

Discussion

Pacific has too narrowly interpreted the language of D.02-09-049 and omitted several UNEs from its compliance filing. In OP 3 of the order, the Commission stated that the expense portion of recurring costs adopted in D.98-02-106 must be reduced by 13%. The Commission then directed Pacific to “calculat[e] the net impact on *all* of its UNE prices of the markup and recurring cost changes ordered herein.” (D.02-09-049, OP 3, p. 38.) (Emphasis added.) Earlier in the same order, the Commission stated that “Pacific should reduce the expense portion of its recurring costs *for each* UNE by 13% to remove non-recurring costs...” (D.02-09-049, Conclusion of Law 10, p. 36.) (Emphasis added.)

It should be clear from these citations that the Commission intended to correct any error in the expense portion of recurring costs wherever it occurred. If UNE prices are based on or derived from costs adopted in D.98-02-106, those UNE prices must now be corrected, even if the actual UNE price was set in a later Commission order or the Commission approved other adjustments to the cost methodology used in D.98-02-106. The Joint Applicants correctly argue that it would be nonsensical to restrict corrections such that UNE prices that are based on or derived from the costs set in D.98-02-106 are not also corrected. Pacific should supplement its December 18, 2002 filing to correct all UNE prices based on or derived from the cost study methodology adopted in D.98-02-106.

Specifically, Pacific should supplement its December compliance filing to adjust geographically deaveraged loop rates that were adopted in D.02-02-047, because those deaveraged loop prices are derived from D.98-02-106 cost data. Pacific should also supplement its filing to include adjustments to several UNE prices adopted in D.99-11-050 which are derived from the TELRIC studies adopted in D.98-02-106. These UNEs are:¹

- DS-1 line ports
- 4-wire voice grade entrance facilities
- DS-3 entrance facilities without equipment
- Unbundled loops provided over digital loop carrier (DLC)
- Line Identifier Database (LIDB) queries
- 800 Database queries
- SS7 links and link mileage
- Digital cross-connect systems (DCS)

The above-listed UNEs either use costs adopted in D.98-02-106 as proxies or as a starting point for further calculations.² To the extent a cost adopted in D.98-02-106 forms the basis of the above-listed UNE price, the UNE price must now be corrected in compliance with D.02-09-049.

Finally, Joint Applicants suggest that UNEs adopted in interconnection agreements also need updating. They argue that Pacific has “usually, if not

¹ See D.99-11-050, p. 100.

² For example, the DS-1 line port was set based on Pacific’s Supertrunk offering. (D.99-11-050, p. 104.) The DS-3 entrance facility without equipment was set based on adopted TELRIC costs for the DS-3 entrance facility *with* equipment. (*Id.*, p. 105.) The price for unbundled loops over DLC uses DS-1 loop and DS-1 EISCC costs as a proxy. (*Id.*, p. 105.) The adopted TELRICs for the STP port and transport elements were used to set prices for SS7 links and link mileage. (*Id.*, p. 107.)

always, based its proposed prices for these additional UNEs on the same cost data that the Commission adopted in D.98-02-106.” (Joint Applicants Comments, 1/21/03, p. 5.) I agree that UNEs adopted in interconnection agreements need updating if they are indeed based on or derived from OANAD costs adopted in D.98-02-106. Nevertheless, the filings thus far do not provide sufficient linkage between the UNEs adopted in arbitration proceedings and the costs adopted in D.98-02-106. Pacific should identify the UNEs that may be impacted and supplement its filing to revise any UNE prices that are based on or derived from the cost methodology employed in D.98-02-106. If other parties believe that Pacific’s list is incomplete, they may provide their own list of impacted UNEs in comments on Pacific’s supplemental filing. Parties must identify the specific UNEs they believe need adjustment and provide a clear explanation, and appropriate citations and supporting material, to demonstrate a link between that UNE price and the cost study methodology used in D.98-02-106.

IT IS RULED that:

1. No later than March 21, 2003, Pacific shall supplement its December 18, 2002 filing in this docket with additional calculations of UNE prices, as set forth in O.P. 3 of D.02-09-049, for:

- Geographically deaveraged loops adopted in D.02-02-047
- DS-1 line ports
- 4-wire voice grade entrance facilities
- DS-3 entrance facilities without equipment
- Unbundled loops provided over digital loop carrier (DLC)
- Line Identifier Database (LIDB) queries
- 800 Database queries
- SS7 links and link mileage
- Digital cross-connect systems (DCS)

- Any additional UNEs adopted in arbitration proceedings that are based on or derived from the cost methodologies employed in D.98-02-106.
2. Other parties to this proceeding may file reply comments on Pacific's supplemental filing no later than March 31, 2003.
 3. If parties wish to challenge any of the UNE's listed (or not included) in Pacific's supplemental filing, they must identify the specific UNEs they believe need adjustment and provide a clear explanation, and appropriate citations and supporting material, to demonstrate a link between that UNE price and the cost study methodology used in D.98-02-106.

Dated February 25, 2003, at San Francisco, California.

/s/ Dorothy J. Duda

Dorothy J. Duda
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Requiring Supplemental Compliance Filing to Decision 02-09-049 on all parties of record in this proceeding or their attorneys of record.

Dated February 25, 2003, at San Francisco, California.

/s/ Antonina V. Swansen
Antonina V. Swansen

N O T I C E

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